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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,357	08/15/2003	Moshe Gershenson	AD-CUNO-101	1651

7590 07/20/2005
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EXAMINER

PHAM, MINH CHAU THI

ART UNIT PAPER NUMBER

1724

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,357

Applicant(s)

GERSHENSON ET AL.

Examiner

Minh-Chau T. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 6, 11, 12 and 22, it has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. See In re Hutchison, 69 USPQ 138.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Poulsen (6,299,662 B1).

Poulsen teaches a filtering system comprising a housing with a lid (11) being securely closed over the housing, an inlet flange (19) supporting a filter media (3), a flange (19) having a lip (5) on the edges of the flange (19), and lip (5) being resting on the housing while contacting lid (11) is securely closed over the housing, and a sealing material located where the lip is contacted the housing and lid (col. 3, line 62 through col. 4, line 4, col. 5, lines 6-13 and lines 20-31). Poulsen further teaches the seal being

an integral part of the lip (see Figs. 7 & 8) and made of an elastomer (col. 3, line 62 through col. 4, line 4).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulsen (6,299,662 B1).

Poulsen discloses a filtering system comprising a housing with a lid (11) being securely closed over the housing, an inlet flange (19) supporting a filter media (3), a flange (19) having a lip (5) on the edges of the flange (19), and lip (5) being resting on the housing while contacting lid (11) is securely closed over the housing, and a sealing material located where the lip is contacted the housing and lid (col. 3, line 62 through col. 4, line 4, col. 5, lines 6-13 and lines 20-31). Poulsen further discloses the seal being an integral part of the lip (see Figs. 7 & 8) and made of an elastomer (col. 3, line 62 through col. 4, line 4). Claims 1-21 differ from the disclosure of Poulsen in that the lip of the flange having a second surface extending above the housing. It would have been obvious to modify the lip (5) of the flange (19) to have any other configuration such as concave up or concave down or any other desired design since it is well settled that mere change of shape without affecting the function of the part would have been an obvious design modification. See Eskimo Pie Corp v. Levous et al 3 USPQ 23.

Response to Arguments

Applicant's arguments filed on May 4, 2005 have been fully considered but they are not persuasive.

Applicant argues that the cited reference Hancock does not disclose "a filter body with a lip wherein the lip rests on the surface edge of the filter housing, and the lip having a first surface and a second surface, both made of a sealing material". The Examiner now drops the Hancock reference and newly introduces the Poulsen reference to reject claims 22-28 under 102 rejection to show a filtering system comprising a housing with a lid (11) being securely closed over the housing, an inlet flange (19) supporting a filter media (3), a flange (19) having a lip (5) on the edges of the flange (19), and lip (5) being resting on the housing while contacting lid (11) is securely closed over the housing, and a sealing material located where the lip is contacted the housing and lid (col. 3, line 62 through col. 4, line 4, col. 5, lines 6-13 and lines 20-31). Poulsen further teaches the seal being an integral part of the lip (see Figs. 7 & 8) and made of an elastomer (col. 3, line 62 through col. 4, line 4), as claimed. The Examiner also rejects claims 1-28 under 103 rejection to show a filtering system comprising a housing with a lid (11) being securely closed over the housing, an inlet flange (19) supporting a filter media (3), a flange (19) having a lip (5) on the edges of the flange (19), and lip (5) being resting on the housing while contacting lid (11) is securely closed over the housing, and a sealing material located where the lip is contacted the housing and lid (col. 3, line 62 through col. 4, line 4, col. 5, lines 6-13 and lines 20-31). Poulsen further discloses the seal being an integral part of the lip (see Figs. 7 & 8) and made of an elastomer (col. 3, line 62 through col. 4, line 4). Regarding

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to the configuration of the flange lip having a second surface extending above the housing. It would have been obvious to modify the lip (5) of the flange (19) to have any other configuration such as concave up or concave down or any other desired design since it is well settled that mere change of shape without affecting the function of the part would have been an obvious design modification. See Eskimo Pie Corp v. Levous et al 3 USPQ 23.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Gebler et al (6,706,087) disclose a filter body of a fluid filter.
- Stamey, Jr. et al (6,712,870 B1) disclose seals for air filters.
- Oussoren et al (6,726,735 B1) disclose a unitary filter cartridge.
- Brunner (5,964,909) discloses a filter cartridge sealing method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Minh-Chau Pham
Patent Examiner
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July 18, 2005